BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the Matter of)
KSMQ Public Service Media Inc.)) MB Docket No) RM-
v.)
Jaguar Communications, Inc.)
To: Secretary, FCC	

For: Chief, Policy Division, Media Bureau

COMPLAINT

Pursuant to Sec. 76.7 and 76.61(b) of the FCC rules, KSMQ Public Service Media Inc., licensee of full-power noncommercial educational ("NCE") television station KSMQ-TV, Ch. 20, Austin, MN ("KSMQ"), by its attorneys, hereby submits this Complaint against Jaguar Communications, Inc. ("Jaguar"), seeking enforcement of KSMQ's mandatory carriage rights under Sec. 76.56(a) and 76.62 of the FCC rules.

On information and belief, Jaguar offers multichannel video programming service over its nearly 1000 miles of fiber optic transmission paths to multiple subscribers in various communities in thirteen Minnesota counties. Jaguar apparently offers its video programming services in two separate lineups: the "South Line-up;" serving the communities of Owatonna, Clarks Grove, Ellendale, Blooming Prairie, Albert Lea, Claremont, South Waseca, Austin, Otisco, New Richland and Medford; and the "North Line-up;" serving the communities of New Market, Elko, Dundas, Northfield, Fairbault, North Waseca, Waterville, Millersburg and Circle

¹ See Exhibit 1.

Lake.² KSMQ currently is carried by Jaguar only on its South Line-up and thus this Complaint is limited accordingly at this time.³

Based on its published channel guides covering its South Line-up, all television broadcast stations are retransmitted by Jaguar in both standard definition ("SD") and high definition ("HD") formats, with the exception of KSMQ, which Jaguar provides solely in SD.⁴ Jaguar's failure to carry KSMQ in HD format violates Sec. 76.62(b) of the FCC rules, the prohibition against material degradation. Moreover, Jaguar's discrimination against KSMQ by carrying it only in SD format, while offering all other television stations in both SD and HD, violates Sec. 76.62(d) of the FCC rules.

The foregoing issues were brought to Jaguar's attention in a telephone conversation between counsel for KSMQ and Kristine Anderson, in-house counsel for Jaguar, on April 17, 2018. During that conversation, Ms. Anderson claimed that the problem was likely related to difficulties encountered by Jaguar in the transport of broadcast signals to Jaguar's headend/signal processing facility. She promised to get back to undersigned counsel for KSMQ promptly after exploring the matter with Jaguar technical personnel. In the ensuing weeks, counsel for KSMQ

² See Exhibit 2. KSMQ has been unable to find any evidence that Jaguar has registered its operations through filing of FCC Form 322 regarding any of the foregoing communities as required by Sec. 76.1801 of the FCC rules. The Commission may wish to undertake its own investigation relating to Jaguar's apparent lack of compliance with other applicable requirements, e.g., EEO (FCC Form 395-A), signal leakage monitoring (FCC Form 320), transmission on aeronautical frequencies (FCC Form 321), FCC regulatory fees, etc.

³ KSMQ has no record of receipt from Jaguar of notification regarding the location of its designated principal headend, as required by Sec. 76.1617(a) of the FCC rules. KSMQ respectfully requests the Commission to order Jaguar to promptly provide the geographic coordinates of its principal headend to KSMQ so it can be determined if the station is entitled to carriage in additional communities. KSMQ reserves the right to amend this Complaint accordingly upon receipt and analysis of the requisite information from Jaguar.

⁴ See Exhibit 3.

placed multiple follow-up calls to Ms. Anderson, but received no response either by telephone or email. In at least one voicemail left for Ms. Anderson, it was offered that a technical representative from KSMQ would work with a counterpart from Jaguar to resolve the matter, but this suggestion was similarly met with no response from Jaguar.⁵

Notably, unlike must-carry complaints relating to local commercial television stations, NCE stations are under no obligation to first raise their claim with the affected cable operator and demonstrate efforts to resolve the matter before filing a complaint. *Compare* 47 C.F.R. § 76.61(a) *with* § 76.61(b)(1). Nevertheless, KSMQ has provided Jaguar with ample notice of the basis of its complaint and an opportunity to resolve the situation without resort to the FCC complaint process. Because Jaguar's lack of response has extended for over two months, KSMQ has found itself with no option other than to file this Complaint.

WHEREFORE, KSMQ respectfully requests the FCC to promptly issue an order requiring Jaguar to comply with its signal carriage obligations under Sec. 76.56(a) and 76.62 of the FCC rules.

Respectfully submitted,
KSMQ PUBLIC SERVICE MEDIA INC.

By: _____

Arthur H. Harding

GARVEY SCHUBERT BAKER

1000 Potomac Street, N.W., Suite 200

Washington, DC 20007

(202) 298-2528

Its Attorneys

Date: July 5, 2018

⁵ See Exhibit 4.

DECLARATION

I, Eric Olson, hereby declare under penalty of perjury as follows:

I am President and Chief Executive Officer of KSMQ Public Service Media, Inc. I have read the foregoing Complaint and am familiar with the matters addressed therein. The statements in the Complaint are true and correct to the best of my knowledge, information and belief and are made in good faith.

//s// L7+01Eric Olson

Date: July 3, 2018

GSB:9569994.2





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About Us

Jaguar Communications, Inc. was founded in 1999 by a group of seven forward-minded people with the intent to provide advanced telecommunications services to a six-county area of Southeastern Minnesota. Today, these advanced telecommunications services are better known as high speed internet, or broadband; and, they can deliver the world to your doorstep with lightning speed.

The early Jaguar team researched and designed the fastest network available — a fiber optic network. Ahead of its time, the company built its network around two main themes: speed and non-obsolescence.

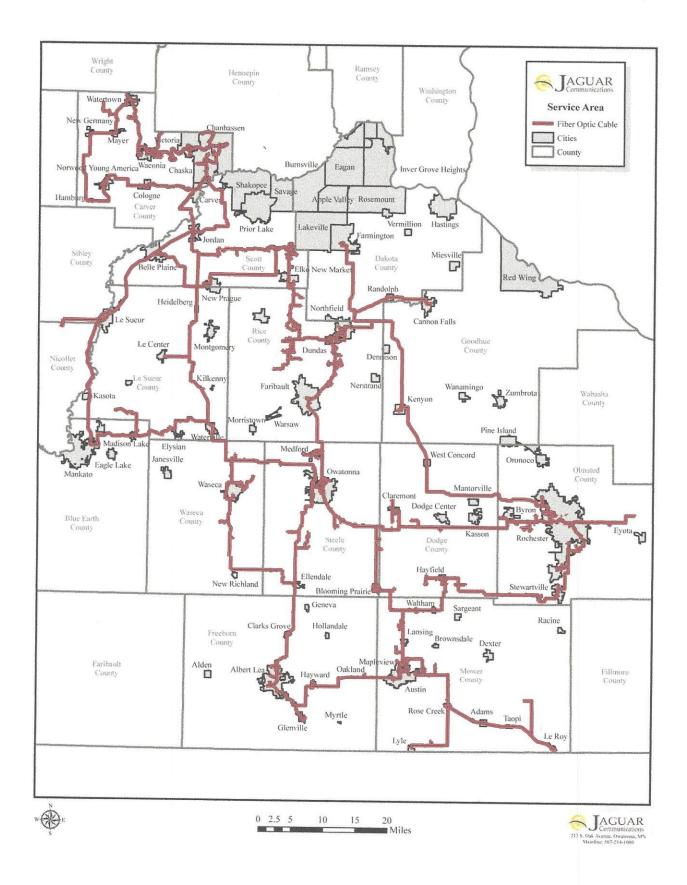
Fiber optic networks are designed for speed. Fiber networks can handle any sort of data traffic; and, Jaguar's system is designed for large amounts of data running very fast. Jaguar recognized early on that the most efficient network design was a Passive Optical Network (PON). Its technical team was on the leading edge of incorporating fiber networks into data transmission—so much so, that Jaguar's people were often working with design engineers throughout the industry to assist with hardware design and requirements. Their contribution helped to move the industry away from technology that was headed toward being obsolete and to move it forward toward the current network style. The current industry-standard network architecture allows for enhanced integration and improved fiber networks by allowing up to 64 customers to be connected to a single strand of fiber without compromising anything in terms of network speed or quality. Today, because of industry leaders including Jaguar, it is feasible to offer incredible network speed for most small or medium sized business and high-end home users. Additionally, Jaguar is easily able to provide larger bandwidth to users that require speeds up to one gigabit. Businesses continue to need more bandwidth to grow and adapt to new technologies, and Jaguar easily grows with its customers' needs. It serves many businesses that use cutting-edge technology by providing increased bandwidth for those customers without having to upgrade either the fiber or the equipment running the customers' current networks. This unique ability separates Jaguar from the competition. Jaguar has the only 100% fiber network in Minnesota and so nothing gets in the way of its customers receiving high speed, high content, undisturbed performance.

Jaguar spent nearly three years building and perfecting its network, and began working with its first customers in the summer of 2002, delivering exciting new service and speed. Since then, Jaguar has continued to be an industry leader in delivering broadband telecommunication services as its fiber optic network ring has expanded. The connection of homes and businesses directly to the fiber optic network, often referred to as a Fiber-to-the-Premises ("FTTP") or Fiber-to-the-Home ("FTTH") connection, allows Jaguar's customers to have the power and speed of a fiber optic network literally delivered to their doorsteps. Jaguar continues to be a leader in the fiber optic deployment and networking fields. The network currently in place has positioned the company for expanded growth well into the future.

Each year, Jaguar overlays new communities with fiber optic cable, bringing the wonder of fiber optics to thousands of homes and businesses that would not have otherwise benefitted from the use of fiber. Today, the vision of Jaguar's early development team continues as Jaguar, with nearly 1000 miles of fiber optic cable in the ground, serves customers in 13 counties and reaches several more. The network includes approximately 410 miles of mainline, 435 miles of distribution lines, and almost 200 miles of fiber connecting the lines to customer homes and businesses along its path. Jaguar serves customers of all sizes, ranging from farm houses in rural Minnesota to Fortune 500 companies, operating out of a specially-designed, state-of-the-art data center on Jaguar's campus in Owatonna, Minnesota.

Wherever you are, Jaguar has over 50 employees waiting to personally serve you. No other company provides the most advanced technology combined with the personalized service that customers get from the business next door. Jaguar's guiding principle is that its most valuable asset is the customers it serves; and, Jaguar stands behind that principle in everything that it does. It brought Jaguar to where it is today, and it will lead Jaguar into the future.

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South Line-up

Channel South Guide PDF

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Ellendale 56026

Blooming Prairie 55917

Albert Lea 56007

Claremont 55924

South Waseca 56093

Austin 55912

Otisco 56072

New Richland 56072

Medford 55049

North Line-up

Channel North Guide PDF

New Market 55054

Elko 55054

Dundas 55019

Northfield 55057

Fairbault 55021

North Waseca 56093

Waterville 56096

Millersburg 55046

Circle Lake 55046

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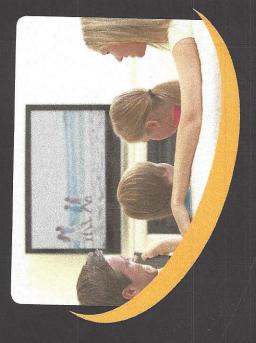
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365	MC Solid Gold Oldies	MCGOLD	732
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ESPN News	ESPNNE	433	681
Discovery Life	FIT	435	
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Nicktoons	NICKTN	451	
TeenNick	TNCK	452	
MTV2	MTV2	453	
MTV Hits	MTVH	454	
VH1 Classic	VH1CL	455	
FUSE	FUSE	456	
CHILLER	CHIL	460	
Cooking Channel	COOK	461	672
GAC GAC	GAC	462	
Hallmark Movies & Mysteries	HALLMM	463	673
Movieplex	MOVIE	464	
SEC Network	SEC	466	679
SEC Overflow	SECO	855	
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MLB Network	MLB	31	646
ESPN Classic	ESPNCL	34	
Outdoor Channel	OUT	431	
ESPNU	ESPNU	432	089
ESPN News	ESPNNE	433	681
Sportsman Channel	SPORT	434	
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SEC Disciplant	SEC	466	
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College Sports -	FCSATL	802	
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NBC Universo	NBCUNI	951	
Cable Noticias	NOTIC	952	
Une Mexicano	CINMEX	953	
Tolon	TELEN	954	
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TBN Enlace USA	TBNENL	957	
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HBO West	HBOW	301	311
HBO 2	HB02	302	312
HBO Signature	HBOSIG	303	313
HBO Latino	HBOLAT	304	314
HBO Family	HBOFAM	305	315
HBO Comedy	HBOCOM	306	316
HBO Zone	HBOZON	307	317

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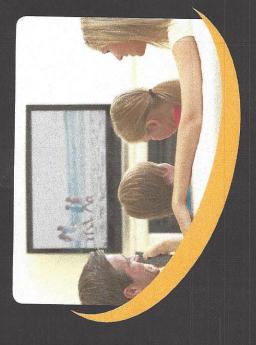
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Showtime Extreme	SHOEXT	344	364
Showtime Beyond	SHBND	345	365
Showtime Next	NEXT	346	366
Showtime Family Zone	FAMZ	347	
Showtime Women	WOMEN	348	368
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STARZ in Black	STZBLK	373	383
STARZ Comdey	STZCOM	374	384
STARZ Cinema	STZCN	375	385
STARZ Kids & Family	STZFAM	376	386
STARZ ENCORE	ENCORE	390	399
STARZ ENCORE Espanol	ENCESP	391	
STARZ ENCORE Action	ENCACT	392	492
STARZ ENCORE Classic	ENCCLA	393	493
STARZ ENCORE Western	ENCWST	394	
STARZ ENCORE Suspense	ENCSUS	395	495
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Rap	MCRAP		
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MC Metal	MCMETL	716	
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Pop	MCPHIT	723	
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	MCY2K	728	
MC 90s	MC90S	729	
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70s	MC70S	731	
	MCGOLD	732	
	MCPOCT	733	
	MCTCTY	734	
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Classic Country	MCCLCT	736	
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Art Harding

From:

Art Harding

Sent:

Tuesday, June 5, 2018 9:34 AM

To:

'kanderson@jagcom.net'

Subject:

RE: KSMQ-TV

Kristine — as we agreed in our initial conversation, Jaguar Communications is in violation of FCC rules by failure to retransmit the HD signal of full power NCE station KSMQ in communities served by Jaguar's Owatonna and Rochester lineups, while at the same time retransmitting both the SD and HD signals of numerous other local stations, e.g., KAAL, KTTC, KXLT and KYIN.

You stated that the problem may be a technical issue involving the transport of signals to various portions of the Jaguar system. I have suggested that you provide contact information for the appropriate technical person at Jaguar to work with a technical representative from KSMQ to seek a resolution of the issue. However, you have failed to respond to my numerous voicemail messages over the last several weeks.

Any further dilatory tactics may require KSMQ to file a formal complaint at the FCC, which of course could lead to an investigation of other apparent violations of FCC rules by Jaguar. We continue to hope to resolve this matter in a prompt and amicable fashion.

From: Art Harding

Sent: Tuesday, April 17, 2018 12:23 PM

To: 'kanderson@jagcom.net' <kanderson@jagcom.net>

Cc: Lawrence M. Miller < lmiller@gsblaw.com>; Eric Olson <eolson@ksmq.org>

Subject: KSMQ-TV

Kristine – it was a pleasure speaking with you today. I appreciate your commitment to get back to me by this time next week with an update as to when we can expect KSMQ-TV to be carried in HD on Jaguar's Rochester and Owatonna lineups, as are all the other broadcast stations that you retransmit. Thank you.

ARTHUR H HARDING

Of Counsel | 202.298.2528 Tel | 202.965.1729 Fax | aharding@gsblaw.com
202.365.5334 Mobile | 206.466.5753 Home |

GARVEY SCHUBERT BARER, P.C. | 2nd Floor | 1000 Potomac Street NW | Washington, DC 20007 | ► GSBLaw.com

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CERTIFICATE OF SERVICE

I, Deborah A. Hatstat, hereby certify that on this 5th day of July, 2018, I have caused a copy of this Complaint to be served either by U.S. mail, postage prepaid or by email on the following:

Kristine Anderson, Esq. Jaguar Communications, Inc. 213 S. Oak Avenue Owatonna, MN 55060

Martha Heller, Chief
Policy Division
Media Bureau
Federal Communications Commission
445 12th St. SW
Washington, D.C. 20554

Steve Broeckaert, Senior Deputy Chief Policy Division Media Bureau Federal Communications Commission 445 12th St. SW Washington, D.C. 20554

Deborah A. Hatstat